

EXHIBIT 5



June 25, 2019

VIA EMAIL

Jennifer R. Davis
Government Information Specialist
SME FOIA Division
U.S. Customs and Border Protection
jennifer.r.davis@cbp.dhs.gov

Re: Freedom of Information Act (FOIA) Request No. CBP-2019-056793, Modification of Part (7) and Notice of Overdue Response to Request for Expedited Processing

Dear Ms. Davis:

This letter is a response to your correspondence dated June 11, 2019, in which you requested clarification of the scope of Part (7) of the pending FOIA request filed by Al Otro Lado and the Southern Poverty Law Center (“AOL” and “SPLC,” respectively, or “Requesters,” jointly), numbered CBP-2019-056793. Under Part (7) of that request, the Requesters seek:

Any and all records¹ that were prepared, received, transmitted, collected and/or maintained by U.S. Customs and Border Protection (CBP)² and/or DHS that describe, refer, or relate to the policies, practices, criteria, standards, guidelines, recommendations and/or procedures used by CBP personnel, including but not limited to U.S. Border Patrol agents, U.S. Office of Field Operations officers, or private contractors with CBP,³ to screen, inspect, or process, and/or decide whether

¹ See the original FOIA request for the definition of “records.”

² See the original FOIA request for the definition of “CBP.”

³ See the original FOIA request for the definition of “CBP personnel.”

to screen, inspect, or process, unaccompanied noncitizen children⁴ who were at or near a port of entry on the U.S.-Mexico border or at the U.S.-Mexico land border in between ports of entry from May 2018 to the present.

The requested records include . . . those describing, referring, or relating to: [...]

(7) Cooperation, collaboration, or other interaction of CBP personnel with private security organizations regarding the presence, arrival and/or processing of unaccompanied noncitizen children at or near a port of entry on the U.S.-Mexico border or at the U.S.-Mexico land border in between ports of entry

In your correspondence dated June 11, 2019, you stated that “CBP sends numerous email correspondence to private security organizations when an unaccompanied child is apprehended/encountered,” and that searching for such records “could potentially return a massive amount of documents, thus creating an unreasonable burden on the agency.”

The Requesters hereby agree to limit Part (7) to the following:

- (a) Email correspondence between CBP and any private security company, including but not limited to Paragon Security and VAPE (a Mexican private security company), regarding individual unaccompanied noncitizen children or groups of unaccompanied noncitizen children present at or near a port of entry on the U.S.-Mexico border and who had not yet been allowed by CBP to enter the port of entry, from November 2018 through May 2019 only;
- (b) Any other non-email communications or records of communications between CBP and any private security company, including but not limited to Paragon Security and VAPE, regarding individual unaccompanied noncitizen children or groups of unaccompanied noncitizen children present at or near a port of entry on the U.S.-Mexico border and who had not yet been allowed by CBP to enter the port of entry, from November 2018 through May 2019 only; and
- (c) Any contracts, policies, practices, criteria, standards, guidelines, recommendations and/or procedures in effect from November 2018 to May 2019 governing CBP’s interactions with any private security company regarding individual unaccompanied noncitizen children or groups of unaccompanied noncitizen children present at or near a port of entry on the U.S.-Mexico border and who had not yet been allowed by CBP to enter the port of entry.

Without conceding that the original FOIA request would have imposed an undue burden on CBP as written, the Requesters believe the above-described modifications to Part (7) of their FOIA request lessen significantly the scope of the request such that any potential burden on CBP will be reasonable.

Per DHS regulations, the Requesters continue to await a decision on their request for expedited processing of this FOIA request, which was due within 10 calendar days of the request dated

⁴ See the original FOIA request for the definition of “unaccompanied noncitizen child(ren).”

May 31, 2019. 6 C.F.R. § 5.5(e)(4). **As of the date of this correspondence, a decision on expedited processing is two weeks overdue.**

Thank you for your prompt attention to this request. If you have any questions, do not hesitate to contact me by telephone or email.

Sincerely,

/s/ Nicole Ramos

Nicole Ramos, Esq.

Project Director, Border Rights Project | Al Otro Lado

511 E. San Ysidro Blvd., # 333

San Ysidro, CA 92173

Tel: (619) 786-4866 (USA)

nicole@aolotrolado.org

/s/ Sarah M. Rich

Sarah M. Rich

Senior Staff Attorney

Immigrant Justice Project | Southern Poverty Law Center

P.O. Box 1287

Decatur, GA 33031-1287

T: (404) 221-5830

sarah.rich@splcenter.org